

**STATEMENT OF  
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DEPARTMENT OF VETERANS AFFAIRS (VA)  
BEFORE THE  
HOUSE COMMITTEE ON VETERANS' AFFAIRS  
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY**

**March 25, 2014**

Good morning, Mr. Chairman, Ranking Member Takano, and Members of the Subcommittee. Thank you for the opportunity to be here today to provide VA's views on pending legislation affecting VA's programs, including the following: H.R. 2942, H.R. 3056, H.R. 4031, H.R. 4037, H.R. 4038, H.R. 4147, and H.R. 4151. Other bills under discussion today would affect programs or laws administered by the Department of Labor (DOL). Respectfully, VA defers to DOL on H.R. 3614, the "Military Skills to Careers Act," a bill to improve the recognition by states of skills learned in the military by Veterans when issuing licenses and credentials, and H.R. 4150, the "Veterans Employment and Training Service Longitudinal Study Act of 2014," a bill directing DOL to enter into a contract for the conduct of a longitudinal study of job counseling, training, and placement services for Veterans provided by that Department. Accompanying me this morning is Mr. John Brizzi, Deputy Assistant General Counsel.

**H.R. 2942**

H.R. 2942 would amend section 3689(e)(5) of title 38, United States Code, to reestablish VA's Professional Certification and Licensure Advisory Committee with a

new termination date of December 31, 2019. VA may appoint new members of the Committee without regard to the individuals who served as members before the date of enactment of this bill.

The Committee would advise the Secretary of the requirements of organizations or entities offering licensing and certification tests to individuals receiving VA education benefits and other related issues as the Committee determines to be appropriate.

VA supports this legislation. If reestablished, the Secretary would be able to receive recommendations and seek advice from the Committee with regard to licensing and certification programs.

VA estimates that, if enacted, there would be no benefit costs or savings associated with H.R. 2942. VA did not have administrative costs available at the time of the hearing.

#### H.R. 3056

H.R. 3056, the “Warriors’ Peer-Outreach Pilot Program Act,” would direct VA to carry out a 3-year pilot program on the provision of outreach and support services to Veterans pursuing higher education under that Department’s Post 9/11 Educational Assistance Program (chapter 33 of title 38, United States Code). VA would select three institutions of higher learning at which the pilot program should be carried out, to include: one 4-year public university, one community college, and one private, not-for-profit college. To be eligible to participate in the pilot program, the institution is required to:

- 1) Provide office space to use information technology equipment and appropriate support services for the individual who will provide peer-outreach and peer-support services at the institution.
- 2) Cooperate in providing data required to evaluate the effectiveness of the pilot program.

Priority selection for the pilot program will be given to institutions of higher learning with existing peer outreach programs for Veteran students and institutions of higher learning located in states with large Veteran populations.

In carrying out the pilot program, the Secretary shall provide peer-outreach and peer-support services to Veterans of Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn who are students at an institution where the Secretary carries out the pilot program. Emphasis will be placed on individuals who have difficulty adjusting to an institution, or who need services or support that the institution is not equipped to provide, by employing:

- 1) Veterans who are using chapter 33 benefits to pursue a program of education leading to a degree at the institution of higher learning;
- 2) Those who have used entitlement to educational assistance under chapter 33 to complete a program of education and graduate from such an institution during the 18-month period preceding the date on which the Veteran is hired to perform services under the pilot program; and
- 3) Veterans who have served on active duty in a theater of combat operations (with special consideration given to Veterans who have recovered or are recovering from a mental health condition).

The Secretary shall provide training for Veterans hired under the pilot program and develop requirements and measures for assessing the impact and effectiveness of the services provided, including:

- 1) Developing and disseminating an online survey;
- 2) Developing and disseminating (not earlier than 18 months after the start of the pilot program) a follow-up online survey instrument to gather data, including data to assess engagement with peer support, experience-accessing services, and adjustment to higher education; and
- 3) Tabulating the number of Veterans who meet on an individual basis with peers, the number of referrals the individual makes, and the outcome of the referrals.

The pilot program would terminate 3 years after the date of commencement or the last day of the academic year that ends no more than 180 days after the date that is 3 years after the date of commencement.

H.R. 3056 would require the Secretary to submit a report to the Committees on Veterans' Affairs of the Senate and the House of Representatives no later than 9 months after completion of the pilot program. The report would include a description of the implementation and operation of the program and an evaluation of the effectiveness of the peer-outreach services provided under the program.

VA does not support this legislation because we do not believe it is necessary. If enacted, it would create a pilot program similar to VA's VetSuccess on Campus (VSOC) program. The legislation also calls for VA to carry out the pilot program on only three campuses, thus limiting the population pool we would be reaching to effectively conduct outreach. The VSOC program aims to help Veterans, Servicemembers, and their qualified dependents succeed and thrive through a coordinated delivery of on-campus

benefits assistance and counseling, leading to completion of their education and preparing them to enter the labor market in viable careers. The VSOC program provides a VA Vocational Rehabilitation Counselor (VRC) at each VSOC school, with requisite space for using information technology equipment and in a private setting to discuss matters specific to the individual's needs. In fiscal year 2013, the VSOC program expanded to 62 campuses, bringing the total number of VSOC sites to 94.

The proposed legislation would require VA to employ Veterans to provide peer outreach and peer support to certain Veterans. However, VSOC VRCs partner with Veterans Health Administration Vet Center Outreach Coordinators on many campuses, to provide peer-to-peer counseling and referral services. These individuals ensure Veterans receive the support and assistance necessary to pursue their educational and employment goals.

VA estimates that, if H.R. 3056 was enacted, there would be no benefit costs. Administrative costs are estimated to be \$211,000 in the first year, and \$652,000 over 3 years. Information technology costs, which include information technology equipment for full time equivalents, installation, maintenance, and information technology support, are estimated to be \$6,000 in the first year, and \$18,000 over 3 years.

#### H.R. 4031

H.R. 4031, the "Department of Veterans Affairs Management Accountability Act of 2014," would amend chapter 7 of title 38, United States Code, by adding a new section 713 that would, notwithstanding any other provision of law, enable the Secretary of Veterans Affairs to remove any individual from the Senior Executive Service (SES) if the Secretary determines the performance of the individual warrants such removal. The

Secretary could remove the individual from Federal service or transfer the individual to a General Schedule position at any grade he determines appropriate.

The bill would require notice to the House and Senate Veterans' Affairs Committees within 30 days after removing an individual from the SES, and the reason for the removal. It provides that "[a] removal under this section shall be done in the same manner as the removal of a professional staff member employed by a Member of Congress." VA opposes this legislation.

The purpose and principles Congress provided in 5 United States Code § 3131 to govern the SES include ensuring employment conditions that attract and retain highly-competent senior executives, protect them from arbitrary or capricious action and prohibited personnel practices, ensure compliance with the civil service rules, and secure protection from improper political interference.

The SES is comprised of men and women charged with leading the Federal Government. The leadership provided by those serving in the SES is critical, as is the need for effective performance management for the SES, and indeed all Federal employees. VA is committed to continuing our dialog with the Committee about effective accountability and performance management throughout VA, including the SES within VA, but we believe this bill would generate serious unintended consequences that would prove counterproductive. Further, as detailed below, under current law, the Secretary already has tools to address the performance of SES managers who have not met acceptable standards.

First, enactment of H.R. 4031 would have a chilling effect on VA's ability to recruit and retain high-quality leaders and managers, especially when VA is in competition with other Federal agencies for those leaders. Enactment of the bill would

significantly diminish workplace protections for VA SES. This would jeopardize VA's ability to recruit senior managers from outside the Department as well as promising General Schedule employees that VA hopes to advance to SES leadership (a critical part of succession planning). We believe this change, if enacted, would diminish VA's ability to best serve Veterans, as well as be an effective steward for the U.S. taxpayer.

Second, we believe employees who are removed would (and should) still retain due-process protections. Thus, actions taken by the Secretary under the authority provided by H.R. 4031 could still lead to lengthy litigation, even if the intent of the legislation was to make removal from the SES a non-appealable action.

As noted above, the Secretary already has tools under current law and established regulations to address executive performance. SES statutes give agencies the authority to manage executives and remove individuals from the SES who perform unacceptably. A career executive can be removed if rated unsatisfactory after an appraisal period. The law requires certain procedural steps within the agency that promote deliberation and fairness but cannot restrict the agency head's final action. An executive removed for performance has no appeal right. To encourage high performers to join the SES, the statute provides fallback to a position of a level at which they formerly excelled, which preserves the agency's long-term investment in the employee. The Secretary also has the ability to effect a reduction in pay as a response to poor performance, as well as reflect that judgment in performance evaluations and performance awards. Secretary Shinseki has utilized all of these tools to address performance and accountability.

We believe restriction of this bill to VA executives will not diminish the systemic threat it poses to the Government-wide SES Corps. Should H.R. 4031 be enacted, it

would set precedent for other agencies. This could be viewed as a fundamental abrogation of Federal commitments to senior executives and should not be done without thorough consideration of the implications for the SES Corps and executive management of Federal programs throughout the Government.

While VA believes H.R. 4031, if enacted, could have broad negative effects on its ability to recruit and retain managerial talent, we cannot estimate with any specificity the budget impact of this measure.

#### H.R. 4037

H.R. 4037, the “Improving Veterans’ Access to Vocational Rehabilitation and Employment Act of 2014,” would make certain improvements relating to training and rehabilitation for Veterans with service-connected disabilities. Section 2 of H.R. 4037 would add a new section 3123 to chapter 31 of title 38, United States Code, for calculating the rate at which Veterans are determined to be rehabilitated to the point of employability during a fiscal year. Under this new section, the Secretary would be required to divide the number of Veterans who participated in a chapter 31 rehabilitation program and those determined to have been rehabilitated to the point of employability during a fiscal year by the sum of the number of Veterans who participated in a chapter 31 rehabilitation program during the fiscal year and the number of Veterans who were entitled to participate in a chapter 31 rehabilitation program during the fiscal year but did not complete the program.

VA cannot support this section as drafted because the required calculation would not validly measure the Vocational Rehabilitation and Employment (VR&E) program outcomes. VA agrees that it is important to improve calculations to measure success,



however, the required calculation would not accurately measure the percent of Veterans made employable and would only account for VA's success at preparing individuals for jobs, not VA's success at helping Veterans obtain jobs. VA is currently improving performance measures and is ready to work with the Committee to further refine its performance measures. No costs would be associated with this section.

Section 3 of the draft bill would add a requirement to section 3104(b) of title 38, United States Code, that any courses of education or training pursued by a Veteran as part of a chapter 31 rehabilitation program be approved for purposes of either chapter 30 or 33, unless this requirement is waived by the Secretary as deemed appropriate. This new section would apply with respect to a course of education or training pursued by a Veteran who begins a program of rehabilitation on or after the date that is 1 year after the date of enactment of this Act.

VA supports the intent behind this section and is examining the need for a policy that would require the approval of the Director, VR&E Service, for Veterans participating in a chapter 31 rehabilitation program to enroll in schools that are not approved for purposes of chapters 30 and 33. VA has the authority under section 3115 of title 38, United States Code, to approve any course of training at any facility if VA determines that it will meet the unique rehabilitation needs of a Veteran participating in a chapter 31 rehabilitation program, and an approved course is not available for that Veteran. This flexibility is necessary to cover the special needs of chapter 31 program participants in certain cases, such as when a Veteran requires specialized, non-college degree training, and an appropriate training facility is located near the Veteran's residence but has not been approved for purposes of chapters 30 or 33 education benefits because it has not been in operation for 2 years. Maintaining the flexibility to approve such

courses of training under section 3115 allows VA to provide individualized services based on a Veteran's unique personal needs. Before approving any course or training facility for a chapter 31 program, VA ensures it meets the requirements of 38 Code of Federal Regulation §§ 21.120 through 21.162 and 21.290 through 21.299. No costs would be associated with this section.

Section 4 of the draft bill would expand eligibility for specially adapted housing (SAH) to disabled Veterans who are eligible for a chapter 31 vocational rehabilitation program and are referred for assistance pursuant to section 2107 of title 38, United States Code. VA cannot support the section as written because it is not clear if Congress intends to establish a new category of eligibility for the smaller SAH grant, which would be provided in addition to chapter 31 assistance, or if Congress intends to move the authority for the housing modification authorized under chapter 31 so that it is only administered as a type of SAH grant under chapter 21. If the latter, VA agrees that any significant modifications to adapt Veterans' homes are best managed by SAH personnel with extensive construction expertise and experience. Our VR&E counselors work collaboratively with SAH personnel to meet the adapted housing needs of chapter 31 Veterans. VA is ready to work with the Committee on drafting technical language that would ensure services are provided to Veterans in need of assistance. VA is unable to estimate costs for this section as additional clarification of this section is needed.

Section 5 of the draft bill would add a new section 3104(c) to title 38, United States Code, giving the Secretary authority to prioritize the provision of chapter 31 services based on need. The Secretary would be required to consider disability ratings, the severity of employment handicaps, qualification for a program of independent living,

income, and other appropriate factors in evaluating need. Section 5 would also require the Secretary to submit to Congress a plan describing any changes with regard to prioritizing the provision of chapter 31 services not later than 90 days before making any changes.

VA cannot support this section because VA does not believe legislation is needed to prioritize vocational rehabilitation services. VA currently has authority to provide vocational rehabilitation services based on the rehabilitation needs of individuals. In addition, under section 3120 of title 38, United States Code, VA is required to provide independent living programs first to Veterans for whom the reasonable feasibility of achieving a vocational goal is precluded solely as a result of a service-connected disability. Furthermore, income is not a factor used to determine VR&E services to be provided to Veterans. No costs would be associated with this section.

Section 6 of the draft bill would amend the definition of “serious employment handicap” in section 3101(7) of title 38, United States Code, to mean a significant impairment resulting from the service-connected disability that is directly related to the Veteran’s ability to prepare for, obtain, or retain employment consistent with the Veteran’s abilities, aptitudes, and interests. The current definition requires that the employment handicap results in substantial part from a service-connected disability rated at least 10 percent disabling that significantly impairs the Veteran’s ability to prepare for, obtain, or retain employment consistent with his/her abilities, aptitudes, and interests. A Veteran is currently entitled to chapter 31 services if the Veteran has a service-connected disability rated at 10 percent and is in need of rehabilitation because of a serious employment handicap as currently defined in section 3101(7). Under the

legislation's new definition, for a Veteran to qualify for chapter 31 services based on a serious employment handicap, there must be a direct relation between the service-connected disability that causes the impairment and the Veteran's ability to prepare for, obtain, or retain employment. In contrast, under the current definition, the service-connected disability that causes the impairment need only be a "substantial" cause of the impairment for a Veteran to qualify for chapter 31 services based on a serious employment handicap.

VA cannot support this section as written because its meaning is not clear. VA is unable to determine whether the change in the current definition of "serious employment handicap" would establish entitlement to chapter 31 services for more or fewer Veterans. VA would be pleased to provide technical assistance to draft bill language that would ensure qualified Veterans receive necessary services. VA is unable to estimate costs that may be associated with this section.

#### H.R. 4038

H.R. 4038, the "Veterans Benefits Administration Information Technology Improvement Act of 2014," would make certain improvements in information technology to help VBA reduce redundancy and process claims more efficiently. Section 2 of H.R. 4038 would require the Secretary to ensure that all original and supplemental claims, for chapter 33 educational assistance, are adjudicated electronically, and that rules-based processing is used to make decisions on such claims with little human intervention. Section 2 would also require the Secretary to ensure that payments of subsistence allowance for Veterans participating in a chapter 31 rehabilitation program are processed and paid out of one corporate information technology system, and that

the information technology system supports more accurate accounting of services and outcomes for Veterans participating in a chapter 31 rehabilitation program. The Secretary would also be required to submit a report to Congress on any changes made in information technology pursuant to section 2, but not later than 180 days after the date of enactment of this Act.

VA does not support this provision because VA needs the flexibility to prioritize information technology needs and resources based on the needs of the entire Department. VA has deployed six major releases for the Post-9/11 GI Bill Long-Term Solution (LTS), which provides an end-to-end claims processing system utilizing rules-based, industry-standard technologies for the delivery of education benefits. On September 24, 2012, end-to-end automation of select Post-9/11 GI Bill supplemental claims was activated in LTS. Since this deployment, over 4,600 claims are automatically processed per day with no human intervention. Approximately 80 percent of all Post-9/11 GI Bill supplemental claims are fully or partially automated. While VA has rules and automation for processing Post-9/11 GI Bill supplemental claims, VA would have to develop these mechanisms for original claims. Eligibility determinations for original Post-9/11 GI Bill claims are very labor-intensive. Currently, LTS is in a sustainment phase with limited development. VA would need development funding to enhance LTS with functionality to process all original and supplemental claims to the maximum extent practicable, with little human intervention. Original claims currently are being processed in an average of 19 days. VA would need a minimum of 24 months from receipt of funding to report on the changes made under this provision.

With respect to chapter 31, VA already has plans in place to ensure claims are processed and paid from one system and is actively planning for development of a new

information technology case-management system for chapter 31 claims. VA is currently beta-testing a phased transition to one chapter 31 payment system using the Corporate Subsistence Allowance Module (SAM). This phased approach enables VA to minimize the risks associated with payments to Veterans during the transition. As with any phased system change, there will be a transition period in which some processing is accomplished in one system and some in another. It is unclear whether this provision of H.R. 4038 would restrict VA from continuing a phased approach for this transition, potentially adversely affecting services to Veterans. If beta-testing of CWINRS SAM continues as expected, national deployment is expected to begin by November 2014. VA is also validating the business requirements for a new information technology case-management system that will better reflect the business and data reporting needs of the chapter 31 program.

VA estimates that, if enacted, no benefits costs would be associated with H.R. 4038, however, VA estimates administrative costs to be \$3 million, and information technology costs to be \$30 million for section 2(a) and \$15 million for section 2(b).

#### H.R. 4147

H.R. 4147, the “Student Veterans IT Upgrade Act,” would require VA to submit to Congress a report regarding “the information technology system of the Department of Veterans Affairs that is used in connection with the administration of [VA] educational benefits...” The bill also references a plan “with respect to such system that was submitted to Congress prior to the date of the report,” but VA is unclear to which plan the bill refers.

The bill uses the singular “system,” but VA has a number of different systems related to separate educational benefits, many with differing rules and requirements. H.R. 4147 also requires an annual briefing to be held by the Chief Information Officer and the Deputy Under Secretary for Economic Opportunity. We are unclear if this is in addition to annual reports.

VA, thus, does not support the bill as drafted, but recommends we discuss with Committee staff the specific areas of interest. The Department will be glad to provide information on those areas of interest, once identified.

#### H.R. 4151

H.R. 4151, the “Veterans Education Survey Act of 2014,” would require VA to work with a private contractor to administer a survey to individuals who have used or are using VA education benefits under chapters 30, 32, 33, and 35 of title 38, United States Code. The survey would collect the following information:

- Demographic information to include:
  - The highest level of education completed by the individual;
  - The military occupational specialty or specialties performed by the individual while they were serving in the armed forces; and
  - Whether the individual has a service-connected disability.
- The individual’s opinion of the Transition Assistance Program (TAP), as well as the effectiveness of TAP, including the instruction on how to use VA education benefits.
- The resources the individual used to support the decision to go to school using his/her VA education benefits.

- The resources used to decide on the program of study in which to enroll.
- The individual's goal when he/she enrolled in the program of education.
- The nature of the individual's experience using VA's education benefits computer-processing systems.
- The nature of the individual's experience working with the certifying official at his/her school.
- Services or benefits provided by the school to the Veteran.
- Type of educational institution the individual attended.
- Whether the individual completed his/her program of study, how many credit hours he/she completed, and any degrees or certificates he/she obtained.
- The employment status of the individual and whether his/her employment status was different prior to starting the program of study.
- Whether the individual was enrolled on a full-time or part-time basis.
- The individual's opinion on the effectiveness of VA's benefits program he/she used to complete the program of study.
- Whether the individual was ever entitled to or used a rehabilitation program under chapter 31.
- Any other matters VA determines appropriate.

The survey would be conducted electronically and by any other means the contracting agency deems appropriate.

H.R. 4151 would require VA to enter into a contract not later than 180 days after enactment of this Act, and the survey would be completed 180 days after VA enters into the contract. The survey would be submitted to the Senate and House Committees on



Veterans' Affairs not later than 1 month before the survey is administered. VA would submit a report to Congress not later than 90 days after completion of the survey, as well as any recommendations related to the results of the survey. VA would also submit an unedited version of the results of the survey.

While VA supports the intent behind this legislation, the Benefits Assistance Service (BAS) is currently administering a similar survey with the help of a private contractor, J.D. Power and Associates. BAS expects to receive fiscal year to date results from the survey by September 30, 2014. The current survey collects much of the information required by this bill, although the survey would need to be modified to include questions about military occupational specialty; whether the Veteran has a service-connected disability; the effectiveness of TAP; the Veteran's experience with the school certifying official; the effectiveness of the Veteran's program of study; the Veteran's experience with VA's computer systems; and whether the Veteran has eligibility under VA's chapter 31 vocational rehabilitation program.

To prevent duplication of work, VA would investigate the feasibility of combining the requirements in H.R. 4151 with VA's current survey within available resources and would work with the Office of Management and Budget to change the survey in accordance with the Paperwork Reduction Act as appropriate. VA would save expenditures by using the currently existing survey, as opposed to starting the process from the beginning. VA expects to receive fiscal year to date results from the current survey by September 30, 2014. VA would need 1 year from the date of enactment to complete the required survey.

VA estimates that, should H.R. 4151 be enacted, General Operating Expenses (GOE) would be \$263,000 to enter into a contract with a non-Government entity to

create a new survey of a statistically-valid sample of individuals who have used or are using educational assistance under chapters 30, 32, 33, and 35 of title 38, United States Code. Alternatively, to incorporate the additional questions into the existing survey, GOE are estimated to be \$106,000.

Mr. Chairman, this concludes my statement. Thank you for the opportunity to appear before you today. I would be pleased to respond to questions you or other Members of the Subcommittee may have regarding our views as presented.